

**§ 105-164.4G. Entertainment activity.**

(a) Definition. – The following definitions apply in this section:

- (1) Admission charge. – Gross receipts derived for the right to attend an entertainment activity. The term includes a charge for a single ticket, a multi-occasion ticket, a seasonal pass, and an annual pass; a membership fee that provides for admission; a cover charge; a surcharge; a convenience fee, a processing fee, a facility charge, a facilitation fee, or similar charge; or any other charges included in gross receipts derived from admission.
- (2) Amenity. – A feature that increases the value or attractiveness of an entertainment activity that allows a person access to items that are not subject to tax under this Article and that are not available with the purchase of admission to the same event without the feature. The term includes parking privileges, special entrances, access to areas other than general admission, mascot visits, and merchandise discounts. The term does not include any charge for food, prepared food, and alcoholic beverages subject to tax under this Article.
- (3) Entertainment activity. – An activity listed in this subdivision:
  - a. A live performance or other live event of any kind, the purpose of which is for entertainment.
  - b. A movie, motion picture, or film.
  - c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction.
  - d. A guided tour at any of the activities listed in sub-subdivision c. of this subdivision.
- (4) Facilitator. – A person who accepts payment of an admission charge to an entertainment activity and who is not the operator of the venue where the entertainment activity occurs.

(b) Tax. – The gross receipts derived from an admission charge to an entertainment activity are taxed at the general rate set in G.S. 105-164.4. The tax is due and payable by the retailer in accordance with G.S. 105-164.16. For purposes of the tax imposed by this section, the retailer is the applicable person listed below:

- (1) The operator of the venue where the entertainment activity occurs, unless the retailer and the facilitator have a contract between them allowing for dual remittance, as provided in subsection (d) of this section.
- (2) The person that provides the entertainment and that receives admission charges directly from a purchaser.
- (3) A person other than a person listed in subdivision (1) or (2) of this subsection that receives gross receipts derived from an admission charge sold at retail.

(c) Facilitator. – A facilitator must report to the retailer with whom it has a contract the admission charge a consumer pays to the facilitator for an entertainment activity. The facilitator must send the retailer the portion of the gross receipts the facilitator owes the retailer and the tax due on the gross receipts derived from an admission charge no later than 10 days after the end of each calendar month. A facilitator that does not send the retailer the tax due on the gross receipts derived from an admission charge is liable for the amount of tax the facilitator fails to send to the retailer. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subsection on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

(d) Dual Remittance. – The tax due on the gross receipts derived from an admission charge may be partially reported and remitted to the operator of the venue for remittance to the Department and partially reported and remitted by the facilitator directly to the Department. The portion of the tax not reported and remitted to the operator of the venue must be reported and remitted directly by the facilitator to the Department. A facilitator that elects to remit tax under the dual remittance option is required to obtain a certificate of registration in accordance with G.S. 105-164.29. A facilitator is subject to the provisions of Article 9 of this Chapter.

(e) Exceptions. – The tax imposed by this section does not apply to the following:

- (1) An amount paid solely for the right to participate, other than to be a spectator, in sporting activities. Examples of these types of charges include bowling fees, golf green fees, and gym memberships.
- (2) Tuition, registration fees, or charges to attend instructional seminars, conferences, or workshops for educational purposes.
- (3) A political contribution.
- (4) A charge for lifetime seat rights, lease, or rental of a suite or box for an entertainment activity, provided the charge is separately stated on an invoice or similar billing document given to the purchaser at the time of sale.
- (5) An amount paid solely for transportation.
- (6) An amount paid for the right to participate, other than to be a spectator, in the following activities:
  - a. Rock climbing, skating, skiing, snowboarding, sledding, zip lining, or other similar activities.
  - b. Instruction classes related to the items included in sub-subdivision a. of this subdivision.
  - c. Riding on a carriage, boat, train, plane, horse, chairlift, or other similar rides.
  - d. Amusement rides, including a waterslide.

(f) Exemptions. – The sale at retail and the use, storage, or consumption in this State of the following gross receipts derived from an admission charge to an entertainment activity are specifically exempt from the tax imposed by this Article:

- (1) The portion of a membership charge that is deductible as a charitable contribution under section 170 of the Code or that is described in section 170(l)(2) of the Code.
- (2) A donation that is deductible as a charitable contribution under section 170 of the Code or that is described in section 170(l)(2) of the Code.
- (3) Charges for an amenity. If charges for amenities are separately stated on a billing document given to the purchaser at the time of the sale, then the tax does not apply to the separately stated charges for amenities. If charges for amenities are not separately stated on the billing document given to the purchaser at the time of the sale, then the transaction is a bundled transaction and taxed in accordance with G.S. 105-164.4D except that G.S. 105-164.4D(a)(3) does not apply.
- (4) An event that is sponsored by an elementary or secondary school. For purposes of this exemption, the term "school" is an entity regulated under Chapter 115C of the General Statutes.
- (5) An event sponsored solely by a nonprofit entity that is exempt from tax under Article 4 of this Chapter if all of the following conditions are met:
  - a. The entire proceeds of the activity are used exclusively for the entity's nonprofit purposes.

- b. The entity does not declare dividends, receive profits, or pay salary or other compensation to any members or individuals.
  - c. The entity does not compensate any person for participating in the event, performing in the event, placing in the event, or producing the event. For purposes of this subdivision, the term "compensate" means any remuneration included in a person's gross income as defined in section 61 of the Code.
- (6) An event sponsored by a farmer that takes place on farmland and is related to farming activities, such as a corn maze or a tutorial on raising crops or animals. For purposes of this exemption, a farmer is a person who holds a qualifying farmer sales tax exemption certificate and farmland is land that is enrolled in the present-use value program under G.S. 105-277.3.
- (g) Sourcing. – An admission charge to an entertainment activity is sourced to the location where admission to the entertainment activity may be gained by a person. When the location where admission may be gained is not known at the time of the receipt of the gross receipts for an admission charge, the sourcing principles in G.S. 105-164.4B(a) apply. (2014-3, s. 5.1(c); 2015-6, s. 2.11; 2016-5, s. 3.4; 2017-204, s. 2.10(a); 2018-5, s. 38.5(e), (u).)